

**STAFF USE ONLY**

Land use application for:

**FLOODPLAIN DEVELOPMENT**  
(Development in the Floodplain Management District)

Staff Initials:

File Number:

**APPLICANT INFORMATION**

Applicant name:	Applicant email:	Applicant phone:	
Applicant mailing address:	City:	State:	ZIP:
Contact person name (if other than applicant):	Contact person email:	Contact person phone:	
Contact person mailing address:	City:	State:	ZIP:

**PROPOSAL**

Brief description of proposal:
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**SITE INFORMATION**

Site address:	Comprehensive Plan designation:	Zoning district:
Map and tax lot #: Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____	Land area:	
Adjacent properties under same ownership: Township: _____ Range: _____ Section: _____ Tax Lot: _____ Township: _____ Range: _____ Section: _____ Tax Lot: _____		

Printed names of all property owners:	Signatures of all property owners:	Date(s):
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***I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.***

Applicant signature:	Date:
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## A. Review applicable land use rules:

This application is subject to the provisions of [Section 703, Floodplain Management District \(FMD\)](#) of the [Clackamas County Zoning and Development Ordinance](#) (ZDO).

It is also subject to the ZDO's definitions, procedures, and other general provisions, as well as to the specific rules of the subject property's zoning district and applicable development standards, as outlined in the ZDO.

## B. Turn in all of the following:

- Complete application form:** Respond to all the questions and requests in this application, and make sure all owners of the subject property sign the first page of this application. Applications without the signatures of *all* property owners are incomplete.
- Application fee:** The fee for this application is established in the adopted [Fee Schedule](#). Payment can be made by cash, by check payable to "Clackamas County", or by credit/debit card with an additional card processing fee using the [Credit Card Authorization Form](#) available from the Planning and Zoning website. Payment is due when the application is submitted. Refer to the FAQs at the end of this form and to the adopted [Fee Schedule](#) for refund policies.
- Site plan:** Provide a site plan (also called a plot plan). A [Site Plan Sample](#) is available from the Planning and Zoning website. The site plan must be accurate and drawn to-scale on paper measuring no larger than 11 inches x 17 inches. The site plan must illustrate all of the following (when applicable):
  - Lot lines, lot/parcel numbers, and acreage/square footage of lots;
  - Contiguous properties under the same ownership;
  - Size, location, and spatial arrangement of all proposed and existing development, including structures, fences, roads, driveways, parking areas, and easements, each with identifying labels and dimensions;
  - Location, distance from the ordinary high water mark of the waterway, and diameter at breast height (dbh) of all trees proposed for removal that are at least 6" dbh;
  - Setbacks of all structures from lot lines and easements;
  - Areas of cut, fill, clearing, and grading, and any riprap, other stream bank protection measures, dams, impoundments, and channel work;
  - Significant natural features (rivers, streams, wetlands, slopes of 20% or greater, geologic hazards, mature trees or forested areas, drainage areas, etc.);
  - Location and elevation of streets, utilities, water supplies, and all onsite wastewater treatment facilities (e.g., septic tanks, septic drainfield areas, replacement drainfield areas, drywells).
  - Elevations of the development site and the 100-year floodplain contour;
  - Location of any proposed mitigation, such as planting of new trees to offset loss of trees removed, excavation of earth materials (soil, rocks, etc.) to provide compensatory flood storage, removal of existing impervious surface to offset new impervious surface, or green infrastructure to offset new impervious surface;
  - Pertinent structure, fill, or storage elevations; and
  - Soil types.

*Note:* All elevations shall be referenced to the North American Vertical Datum of 1988 (NAVD 88).

- Development plans:** Provide construction drawings and specifications for building construction and materials, loads and forces, and effect on soil bearing pressures, erosion control, floodproofing, filling, dredging, grading,

channel improvement, storage of materials, water supply, surface water management, green infrastructure facilities, and sanitary facilities.

- Volume calculations:** Attach calculations, completed and stamped by a registered professional engineer, licenses architect, or licensed surveyor, identifying the volume of proposed development (including fill) below base flood elevation and the volume and area (both surface area and cross-sectional area) of compensatory flood storage that will be provided.
- Watercourse alteration/relocation description:** Show in attached plans the extent to which any watercourse will be altered or relocated as a result of proposed development.
- Elevation or floodproofing certificate:** Provide either an elevation certificate or a Federal Emergency Management Agency National Flood Insurance Program Floodproofing Certificate (for Non-Residential Structures). In either case, the currently effective form shall be used, and it shall be completed in accordance with the accompanying instructions, and based on the submitted construction drawings and proposed site locations of development. The determination regarding which certificate is required shall be made based on the nature of the proposed development consistent with National Flood Insurance Program regulations.
- Profiles/cross sections:** Include accurate profiles/cross sections, drawn to-scale, of all proposed development, including:
  - Elevations of the lowest floor, including the basement, and next higher floor of residential structures and elevated (non-floodproofed) commercial or industrial structures;
  - Elevations of duct work, furnaces, hot water heaters, electrical service, air conditioning units, fuel storage tanks, and other equipment, machinery, and appliances;
  - Elevation to which all structures, equipment, machinery, and appliances will be flood-proofed or wet-floodproofed;
  - Locations and area in square inches of flood vents for residential and non-residential structures;
  - Elevations, length, width, thickness, and materials for riprap and other stream bank protection measures;
  - Elevations, length, width, thickness, materials, and source of materials for areas of fill;
  - Certification by a registered professional engineer or licensed architect that the floodplain development methods of all elements of the proposed development meet the applicable criteria of ZDO Subsections 703.10 and 703.11, while conforming to the applicable Federal Emergency Management Agency National Flood Insurance Program standards; and
  - Certification from a registered professional engineer or licensed architect that cut and fill is balanced if cut and fill is necessary for the project.
- For development in the floodway:** Provide the following additional information/documentation for specific development types in the regulatory floodway:
  - **Water-dependent uses (defined in ZDO 703.05):** Provide a “no-rise” certification. (This is a certification that is provided by a registered professional engineer or licensed architect that demonstrates through accompanying hydrologic and hydraulic analyses, performed in accordance with standard engineering practice and National Flood Insurance Program rules and regulations, that an encroachment within the floodway will not result in any increase in the flood levels during the regulatory flood discharge. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodplain shown on the Flood Insurance Rate Map.)
  - **Riprap or other structural stream bank protection methods:** Provide plans and other written evidence showing how the development will comply with ZDO 703.07(B), 703.10, and 703.11.
  - **Bridges and other stream crossings:** Provide a “no-rise” certification *or* a Conditional Letter of Map Revision (CLOMR), followed by a Letter of Map Revision (LOMR), may be required instead of a “no-rise” certification, pursuant to ZDO 703.07(D) and 703.10(G).
  - **Hydroelectric facilities:** Provide a “no-rise” certification.

- **Replacement, substantial improvement, or repair of substantial damage of a structure that was constructed prior to establishment of, or revisions to, the floodway:** Provide plans and other written evidence showing how the development will comply with ZDO 1206.06 and 703.07(E)(2). If an increase in ground coverage is proposed, also provide a “no-rise” certification.

**Narrative:** Provide a narrative addressing the applicable criteria listed in Section D below.

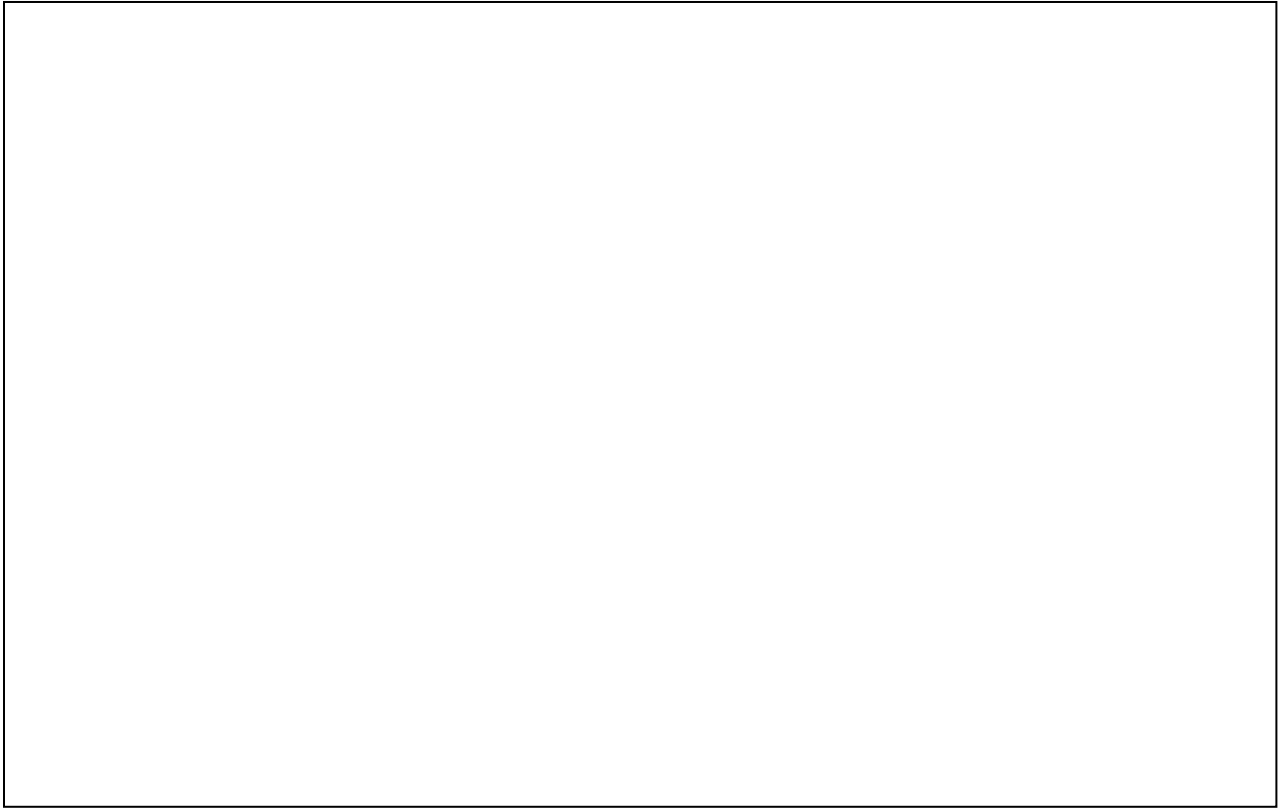
**C. Answer the following questions:**

Accurately answer the following questions in the spaces provided. Attach additional pages, if necessary.

1. Describe the proposed development. Identify all proposed structures, all improvements, such as grading, erosion control measures, and vegetation removal, and all proposed infrastructure, access, and utility improvements.



2. Explain how all necessary permits have or will be obtained from those federal, state, or local governmental agencies from which prior approval is required. National Marine Fisheries Service confirmation of permit issuance or verification that no permit is required is mandatory. Please review the attached Federal Permit Information Sheet for more details.



3. Describe how much cut and fill (in cubic yards) is proposed, where on the subject property the cut will occur, where the fill will occur, and which of the submitted plans show the location of all cut and fill. If fill is proposed, describe how it will be balanced with removal of material onsite or offsite, and note which of the submitted plans show the location of all onsite and offsite fill. Attached narrative must address how any proposed fill will meet applicable criteria in ZDO703.10(F).



4. Describe the type and square footage of all **new** impervious surface (structures, paving, etc.) and all **removed** impervious surface.

5. How many trees with at least 6" diameter at breast height (dbh) are proposed for removal?

- a. List the dbh of each tree proposed for removal.

6. Describe how surface water will be managed, as required pursuant to ZDO 1001 and 1006, including whether retention, low impact development, or green infrastructure will be used and the locations and methods proposed for each.

7. Will the proposal disconnect land from the floodplain (e.g. by levee) or reconnect land to the floodplain (e.g. by removal or setback of a levee)?

- No (skip to Question 8)
- Yes. How much land (in square feet or acres) will be disconnected or reconnected to the floodplain?

8. Will the proposal include any development (including fill) below the base flood elevation (BFE)?

- No (skip to Question 9)
- Yes. Provide the volume of development (including fill) below the BFE and the volume and area (both surface area and cross-sectional area) of compensatory flood storage that will be provided, as identified in attached calculations completed and stamped by a registered professional engineer, licensed architect, or licensed surveyor.

9. a. Is any development proposed in the floodway?
- No (*Skip to Part D*)
  - Yes, and the submittal requirements for development in the floodway listed on Page 3 of this application are attached. (*Answer Question 9b*)
- b. Check the box next to all of the types of development proposed in the floodway:
- These water-dependent uses:
  - Riprap or other structural stream bank protection methods
  - Stream crossings, such as bridges and utility lines
  - Hydroelectric facilities
  - Replacement, substantial improvement, or repair of substantial damage of structure that was constructed prior to the establishment of, or revisions to, the floodway

Note: Reconstruction of existing development in the floodway that is not a structure but predates the FMD may require a separate application for an Alteration of a Nonconforming Use pursuant to ZDO 1206, *Nonconforming Uses*.

#### **D. Describe in an attached narrative:**

1. How each factor of consideration in ZDO 703.09(B) relates to the proposed development.
2. Whether any proposed development includes alteration of a watercourse and, if so, how maintenance will be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
3. Whether the proposal includes development of *non-residential structures* pursuant to the exception provided in ZDO 703.12 and, if so, how the development will meet the criteria of ZDO 703.12, *Exception* and 703.13, *Variances*.
4. How the project will meet all applicable provisions of ZDO 703.10, *General FMD Standards* and 703.11, *Specific Standards*. For example, explain how the project will comply with ZDO 703.10(A) for development requiring anchoring, ZDO 703.10(D) for placement or substantial repair of a manufactured dwelling, or ZDO 703.11(A)(1) for residential construction in AE Zones with designated floodways.

## FAQs

### **When is a Floodplain Development permit required?**

The County's Zoning and Development Ordinance (ZDO) allows for development, including the construction of new buildings, grading, cutting, and filling, within the floodplain of rivers and streams, subject to certain standards. However, development in the floodway is highly restricted and is prohibited in many cases. Development laterally within the Floodplain Management District (FMD), as defined in ZDO 703, requires a Floodplain Development permit, unless the development is exempted from this permit requirement by ZDO 703.06.

### **What is the permit application process?**

Floodplain Development permits are subject to a "Type II" land use application process, as provided for in [Section 1307](#) of the ZDO. Type II decisions include notice to owners of nearby land, the Community Planning Organization (if active), service providers (sewer, water, fire, etc.), and affected government agencies. If the application is approved, the applicant must comply with any conditions of approval identified in the decision. The Planning Director's decision can be appealed to the County Land Use Hearings Officer.

### **What is needed for the County to approve a land use permit?**

Development in the floodplain *may* be permitted after an evaluation by the County of applicable standards of the ZDO. The applicant is responsible for providing evidence that their proposal does or can meet those standards. In order to address the standards, the information requested in this application should be as thorough and complete as possible. A permit will only be approved or denied after a complete application is received and reviewed. The County approves an application only if it finds that the proposal meets the standards or can meet the standards with conditions.

### **How long will it take the County to make a decision about an application?**

The County makes every effort to issue a decision on a Type II land use application within 45 days of when we deem the application to be complete. State law generally requires a final County decision on a land use permit application in an urban area within 120 days of the application being deemed complete, and within 150 days for a land use permit in a rural area, although there are some exceptions.

### **If an application is submitted and then withdrawn, will a refund be given?**

Please see Planning & Zoning Fee Schedule under "Other Fees" [here](#). The \$5 Technology Fee is non-refundable.

### **Who can help answer additional questions?**

For questions about the County's land use permit requirements and this application form, contact Planning and Zoning at **503-742-4500** or [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us). You can also find information online at the Planning and Zoning website: [www.clackamas.us/planning](http://www.clackamas.us/planning).

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**503-742-4545:** ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод?  
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Information about:

## **PERMITS FROM FEDERAL AGENCIES FOR ENDANGERED SPECIES ACT COMPLIANCE IN THE FLOODPLAIN MANAGEMENT DISTRICT**

### **How does the Endangered Species Act relate to development in the Floodplain Management District?**

Clackamas County participates in the National Flood Insurance Program (NFIP), which provides owners of property in floodplains with significant benefits, including access to federally backed flood insurance, federal disaster relief funding and federally backed mortgages. As a condition of NFIP participation, the County must regulate development in the Special Flood Hazard Area (SFHA, often referred to as the 100-year floodplain) according to minimum standards established by federal law and overseen by the Federal Emergency Management Agency (FEMA). The County's implementing regulations are found in Zoning and Development Ordinance (ZDO) [Section 703, Floodplain Management District \(FMD\)](#).

As a result of legal action brought against FEMA, National Marine Fisheries Service (NMFS) issued a biological opinion that concluded the NFIP threatens various fish and marine mammal species listed under the Endangered Species Act (ESA) and recommended changes to the standards that apply to development in the SFHA. FEMA is working on a permanent plan to implement these changes, and in the meantime, it directed most communities in Oregon, including Clackamas County, to apply interim protections beginning December 1, 2024.

### **How is the County responding to the FEMA directive to implement new requirements for ESA compliance?**

The County has begun work to amend the ZDO to include the required interim protections; however, this process will take time. Until the amendments are adopted, an alternative is needed to ensure ESA compliance related to protected salmon and steelhead species in the County.

One of the existing approval standards for a Floodplain Development Permit is that an applicant obtains all necessary federal and state permits for their proposed development. The County has concluded that this may include a requirement to obtain a permit from NMFS or the United States Army Corps of Engineers (USACE) related to the ESA. As a condition of approval for a Floodplain Development Permit filed on or after December 1, 2024, the applicant will be required to either obtain a permit from NMFS (or USACE for certain in-water work where a consultation with NMFS is included in the permitting process) or a statement from NMFS that no permit is required for the proposed development. Essentially this will demonstrate that the proposed development is consistent with the ESA.

## What is the NFMS or USACE review process?

Review of a federal agency permit is outside of the land use review process of Clackamas County. Please coordinate with the federal agency for information on the review process.

## How can I obtain additional information?

For more information on NMFS and USACE permits:

NMFS: <https://www.fisheries.noaa.gov/permits-and-forms/protected-resources>

- For development in the floodplain: [Incidental Take Authorization](#)

USACE: <https://rrs.usace.army.mil/rrs/home/permitting>

- For manmade change to the waterway: [Regional and Programmatic General Permits](#)

For more information on FEMA's integration of the NFIP and the ESA in Oregon, and related changes to development regulations in the SFHA:

<https://www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration>

For more information on the affected species status and distribution in Oregon visit [NOAA's Species and Habitat App](#).

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